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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,665	12/18/2000	William B. Douglas	Essent.01USU1	7055
27479	7590	02/02/2006	EXAMINER	
COCHRAN FREUND & YOUNG LLC			RHODE JR, ROBERT E	
2026 CARIBOU DR			ART UNIT	
SUITE 200			PAPER NUMBER	
FORT COLLINS, CO 80525			3625	

DATE MAILED: 02/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/741,665

Applicant(s)

DOUGLAS, WILLIAM B.

Examiner

Rob Rhode

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19 - 21, 24, 26, 27, 34 and 36 - 37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19 - 21, 24, 26, 27, 34 and 36 - 37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant amendment of 11-14-05 amended claims 19 - 20, 36 and added new claim 37 and canceled claims 1 – 18 as well as withdrew claims 22 – 23, 25, 28 – 33 and 35. In addition, Applicant traversed rejections of Claims 19 – 21, 24, 26, 27, 34 and 36.

Currently, claims 19 – 21, 24, 26, 27, 34 and 36 - 37 are pending.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 19 – 21, 24, 26, 27, 34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over “Online Auction opens up”, Carolyn Whelan; Electronic News; New York; Apr. 27, 1998, “FairMarket Goes Live: Revolutionary Online Site Delivers Daily Business-to-Business Auctions”; Bus/Tech Editors; Business Wire; New York; Apr. 20, 1998, “Do-it-yourself auction format launched online by FairMarket”, Dianne Tommer; Electronic Buyer’s News, Jun 29, 1998 and “High**

**Technology Plunking \$1.5 M into Promising Start-Ups”; Ronald Rosenberg, Jan 14, 1998 and hereafter collectively referred to as “FairMarket”.**

Regarding claim 19 (Currently Amended), FairMarket teaches a method of selling goods through an electronic blind supply open commerce computer business system comprising:

receiving product information for said goods that is uploaded by distributors who are not manufacturers of said goods over a network to said computer business system which includes the name of the manufacture said goods, over a network to said computer business system which includes the name of the manufacture of said goods, product identification information and a price specified by said distributors for said goods (see at least Pages 1 and 2);

automatically marking up said price specified by said distributors in said computer system to a sales price (see at least Page 5). Please note that FairMarket does not specifically disclose “markup”. In that regard, the Applicant’s specification does not disclose or even use the word “markup”. However, the Applicant’s specification at page 4, line 24 does state the “supplier prices are increased to create a profit”. Thereby, the Examiner takes the position that is inherent in FairMarket as discloses at page 4, that the FairMarket would “markup” the price of a distributor/seller/supplier to a new specified sales price (i.e. specified minimum bid price) in order to make a profit and thereby to stay in business over the long term.

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automatically generating entries in said computer business system that include said sales price, said product identification information, and said name of said manufacturer of said goods (see at least Pages 1 and 3);

providing a listing of said goods from said entries on said computer business system without revealing said name of said distributors so that said distributors remain anonymous to purchasers at all times while said goods are listed on said computer business system and after said goods are sold, so that said distributors may sell said goods on said electronic blind supply open commerce computer business system without affecting a pricing structure established by said distributors for said goods (see at least Pages 1 and 3);

making said listings of said goods available to said purchasers on said computer business system through a network connection to allow said purchasers to purchase said goods at said sales price over said network (see at least Page 1).

Regarding claim 26, the Examiner takes Official Notice that is old and well known to include a part number when generating a listing that includes product information comprising a part number (Pages 1 – 4). For example, FairMarket discloses major computer manufactures such as IBM and HP who are known to provide a part number in product listings to ensure correct tracking of sales of these parts such as disc.

Regarding claim 27, FairMarket teaches a method wherein said product information further comprises a product description, product specifications, and product category information (Page 4).

Regarding Claim 37, FairMarket teaches a method of automatically accepting a sales order on said computer business system from a qualified purchaser that includes a purchase price that satisfies said sales price (Pages 1, 3 – 4 and 7);  
automatically generating a purchase order on said computer business system in response to said sales order that includes said product information and said price specified by said supplier for said goods (Pages 1 and 3 –4 );  
completing the sale of said goods using said electronic blind supply open commerce business computer system (Pages 1 and 4).

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 20 – 21, 24 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over FairMarket in view of Shkedy (US 6,260,024 B1).**

FairMarket substantially discloses and teaches the Applicant's invention.

While FairMarket does disclose an online blind supply method with purchasing and shipping from their warehouse, FairMarket does not specifically disclose and teach a method that includes paying the distributor after the purchaser has accepted the goods as well as a method of accepting a shipping tracking number, accepting EFT, product information, purchaser accessing via a corporate procurement system.

In the same area of online buying and selling and regarding claim 20, Shkedy teaches a method, wherein said process of completing the sale of said goods comprises the process of paying said distributor after said purchaser accepts said goods (Col 18, lines 4 - 15 and Col 19, lines 39 – 50).

Regarding claim 21 (Previously Amended), Shkedy teaches method wherein said process of completing the sale of said goods comprises the process of accepting a shipping tracking number, shipping method, and ship date (Col 13, lines 56 - 58).

Regarding claim 24, Shkedy teaches a method wherein said process of completing the sale of said goods comprises the process of accepting an electronic funds transfer (Col 18, lines 54 - 55).

Regarding claim 34, Shkedy teaches a method wherein said purchasers access said system via a corporate procurement system of said purchaser (Col 6, lines 37 - 40).

It would have been obvious to one of ordinary skill to have provided the method of FairMarket with the method of Shkedy to have enabled a method that includes paying the distributor after the purchaser has accepted the goods as well as a method of accepting a shipping tracking number, accepting EFT, product information, purchaser accessing via a corporate procurement system. FairMarket discloses a method as recited in claim 19 (see at least pages 1 - 4 and 7). In turn, Shkedy teaches a method of selling goods through an electronic blind supply system that includes paying the distributor after the purchaser has accepted the goods as well as a method of accepting a shipping tracking number, accepting EFT, product information, purchaser accessing via a corporate procurement system (see at least Abstract, Col 13, lines 56 - 5, Col 24, lines 54 - 67). Therefore, one of ordinary skill in the art would have been motivated to extend the method of FairMarket with a method that includes paying the distributor after the purchaser has accepted the goods as well as a method of accepting a shipping

tracking number, accepting EFT, product information, purchaser accessing via a corporate procurement system.

***Response to Arguments***

Applicant's arguments with respect to claims 19 – 21, 24, 26, 27, 34 and 36 -37 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that FairMarket does not disclose or teach "markup" and that FairMarket only discloses an auction method, which is different than the Applicants invention of a "set price" for the products.

In response, please see above rejection regarding "markup" and a "set price".

Applicant argues that an auction is different from the method of the Applicant's because an auction does not "set a price".

First, the method recited is for a method of selling goods through an electronic blind supply open commerce system, which does not exclude an auction system such as method discloses by FairMarket. Moreover, FairMarket discloses that a minimum price is set by a seller/distributor, which for Examination purposes was interpreted as a "set price".

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is Sharp (US 6,263,317 B1), which discloses channel conflict.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **571.272.7159**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

**Alexandria, Va. 22313-1450**

or faxed to:

**571.273.8300**

[Official communications; including

After Final communications labeled

"Box AF"]

[Informal/Draft communications, labeled

"PROPOSED" or "DRAFT"]

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